

Message

From: Johnson, Kathleen [Johnson.Kathleen@epa.gov]
Sent: 1/25/2021 5:16:08 PM
To: Starfield, Lawrence [Starfield.Lawrence@epa.gov]; Kelley, Rosemarie [Kelley.Rosemarie@epa.gov]
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Johnson, Kathleen has shared a OneDrive for Business file with you. To view it, click the link below.



EO 13892 Section 6 revocation 1 22 21.ajs cmts +KJ.docx

My thoughts

Kathleen H. Johnson
Senior Policy Advisor
Office of Enforcement and Compliance Assurance
Cell phone 415-640-5476
Johnson.kathleen@epa.gov

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Monday, January 25, 2021 12:14 PM
To: Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: FW: Revocation of an OECA/OGC memo on enforcement

Kathleen and Rosemarie,

I'm good with these changes, if the characterizations are correct. Please check with the team and let me know. Thanks.

Larry

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From: Simons, Andrew <Simons.Andrew@epa.gov>
Sent: Monday, January 25, 2021 10:45 AM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: RE: Revocation of an OECA/OGC memo on enforcement

Larry:

This looks good. We did have some suggestions/slight revisions for you and your team to consider. Thanks again for your attention to this and it seems like we should be able to close this out quickly.

Andrew Simons
Acting Associate General Counsel
Cross-Cutting Issues Law Office
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WJC-N 7526E

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Please consider the environment before printing this email.

From: Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Sent: Friday, January 22, 2021 6:58 PM
To: Hoffer, Melissa <Hoffer.Melissa@epa.gov>
Cc: Payne, James (Jim) <payne.james@epa.gov>; Simons, Andrew <Simons.Andrew@epa.gov>; Johnson, Kathleen <Johnson.Kathleen@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Subject: Revocation of an OECA/OGC memo on enforcement

Melissa,

On January 20th, President Biden issued an Executive Order (EO) on *Revocation of Certain Executive Orders Concerning Federal Regulations*. That EO specifically revokes an executive order (no. 13892) issued by the Trump Administration, entitled *Promoting the Rule of Law Through Transparency and Fairness in Civil Administrative Enforcement and Adjudication*. President Biden's EO further states that the heads of agencies shall "promptly take steps to rescind any orders, rules, regulations, guidelines or policies" implementing that order.

In conformance with that direction, I would like to quickly revoke the September 2020 memorandum issued by former OECA Assistant Administrator Susan Bodine and former General Counsel Matthew Leopold (AA/GC memo), implementing Section 6 of Trump Executive Order 13892. The Trump EO, and the ensuing AA/GC memo, provided that agencies engaged in an administrative enforcement action should afford regulated parties certain procedural safeguards above and beyond those required by law. Although the practice of the enforcement program is to provide many of the procedural steps spelled out in the AA/GC memorandum, that memo raised numerous implementation issues for enforcement that have slowed our enforcement efforts; we believe the procedures required in the AA/GC memo are unwarranted and unnecessary.

Because memo on EO 13892 Section 6 was jointly issued by the Assistant Administrator for OECA and the General Counsel, I would propose that we issue a revocation memo jointly. Attached is a suggested version for your review (Andy Simons, on your staff, is very familiar with the Section 6 memo).

If you have any questions, or would like to set up some time to discuss this matter, please contact me or Kathleen Johnson of my staff.

Thank you.

Larry

Larry Starfield
Acting Assistant Administrator
Office of Enforcement and Compliance Assurance
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